

DECISION



THE COMPTROLLER GENERAL OF THE UNITED STATES

WASHINGTON, D.C. 20548

Singler - 5200
PL-CC

9/14/6

FILE: B-193286

DATE: February 13, 1979

MATTER OF: Bartlett Consolidated, Inc.

[Protest Concerning Air Force Award of Ballfield Construction and Repair Contract]

DIGEST:

1. Protest alleging specification deficiencies which is filed after bid opening is untimely and not for consideration on the merits.
2. Subcontracting with large business under construction contract set aside for small business is not legally objectionable.

DLG 00884

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Bartlett Consolidated, Inc. (Bartlett) protests the award of a contract to Mic Lyn Corporation (Mic Lyn) under Project No. HA78-0134 A and B by the United States Air Force, Hanscom AFB, Massachusetts.

DLG 00419

The project, totally set aside for small business, is for the construction and repair of ballfields. Bartlett contends that the fencing aspect of the job was "vast enough to warrant a separate contract." Additionally, Bartlett questions the percentage of work being subcontracted, and challenges the small business status of the fencing subcontractor.

The first issues relates to an alleged defect in the Government's solicitation, i.e., that it encompassed more than it should have. Section 20.2(b)(1) of our Bid Protest Procedures, 4 C.F.R. 20.2(b)(1) (1978), provides that:

"Protests based upon an alleged impropriety in any type of solicitation, which is apparent prior to bid opening or the closing date for receipt of initial proposals, shall be filed prior to bid opening or the closing date for receipt of initial proposals."

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Since the protest was filed after award, this issue is untimely raised and not for consideration on the merits.

There is no legal basis for sustaining the protest on the basis of the second issue. The protester does not state any basis for its objection to the percentage of work being subcontracted. Thus, we can only point out that there are few restrictions on the amount of work which small business contractors can subcontract out, particularly under construction contracts, even if the work is subcontracted to large businesses under set-aside procurements. See Defense Acquisition Regulation (DAR) 7-2003.2; Nanakuli Paving & Rock, Co., B-181873, January 28, 1975, 75-1 CPD 58; J&H Smith Mfg., Co., Inc., B-186303, July 14, 1976, 76-2 CPD 45; Sampson Electronics, B-190863, January 4, 1978, 78-1 CPD 4. Consequently, the small business size status of the fencing subcontractor is immaterial.

The protest is dismissed.



Milton J. Socolar
General Counsel